

October 14, 2011

**STATEMENT FOR THE RECORD
SUBMITTED BY MAJOR GENERAL ROBERT H SCALES PhD(USA, Ret.)**

**U.S. House of Representatives
Committee on Homeland Security
Subcommittee on Oversight, Investigations, and Management
Hearing on:**

“A Call to Action: Narco-Terrorism’s Threat to the Southern U.S. Border”

Chairman McCaul, Ranking Member Keating, thank you for the opportunity to provide testimony on the situation at the Southern U.S. Border. I recently joined General Barry McCaffrey Bob USA (Ret.) to complete a strategic assessment of the border security situation in Texas (*Texas Border Security: A Strategic Military Assessment*). This assessment was conducted on behalf of the Texas Department of Agriculture

Five years ago, the Homeland Security Subcommittee authored the report *A Line in the Sand: Confronting the Threat at the Southwest Border*, exposing the rise of the Mexican drug cartels. Your report was prescient in a number of respects. At the time, no one could have predicted the enormity of the bloodshed to come in Mexico. But you did predict correctly that this nation has a war on its southern border. Your Committee’s report stated that Cartels are controlling the flow of illegal drugs into the U.S., and weapons and cash into Mexico, killing anyone that gets in their way. You anticipated the prospect of “spillover violence” and the critical importance of increasing the resources of our Border Patrol and Border Sheriffs.

Most important, both your Homeland Security Subcommittee’s report and our recent report, *Texas Border Security: A Strategic Military Assessment* share essentially the same core conclusion: America's borders are also our nation's last line of defense in the War on Terror and they must be secured. Your 2006 report underscored the evidence that terrorists want to exploit our porous borders to gain entry into the United States. We are in complete agreement that America must make securing our borders the top priority.

The White House and the Department of Homeland Security agree with this priority. As recently as Oct. 5, 2011, the Secretary of Homeland Security gave a speech reiterating that the laws of the United States pertaining to legal and illegal immigration have to be enforced in the “smartest” and “most efficient way possible”. Indeed, the Secretary said that “the border security measures we have taken constitute the most innovative and effective approach our country has ever deployed.”

Unfortunately, however, as our report documents, nothing could be further from the truth. There is no comprehensive plan in place to secure the Southwest border. In fact the *National Southwest Border Counternarcotics Strategy 2011* is not a strategy but rather a

to-do list focused on what the U.S. Government will achieve when resources are available. The list includes preventing trafficking of illicit drugs across the border with Mexico, as well as stopping the illegal outbound movement of weapons and bulk currency from the United States.

As you know, federal resources for border security are insufficient for the task and are not likely to grow substantially in the foreseeable future. As our report documents, however, the groundwork has been set for a coordinated federal/state/local action to secure Texas border with a coalition of state and local law enforcement agencies. Even with these limited resources our front line local and state law enforcement and Border Patrol and Immigration Customs Enforcement Agents are doing a tremendous job. But a great deal more needs to be done on both sides of the border.

Our report commends Mexican President Felipe Calderon and his courageous campaign to break the power of criminal organizations operating in his country. We acknowledge that through the Mérida Initiative and other programs, the United States has been supporting Mexico's efforts in a wide range of law enforcement and judicial areas. The Mérida Initiative, however, has been significantly underfunded and has not yet become part of a shared border security strategy

As you have asserted for years, Congress needs to take action on immigration reform. Our report, however, does not address the issue. However we do take issue with Department of Homeland Security's repeated reference to news media reports (USA Today, Washington Post, Wall Street Journal and others) that the U.S. border with Mexico is safer than ever before. It is not.

In this regard, we encourage members of this Subcommittee to obtain all of the data from the U.S. Department of Justice's National Drug Intelligence Center's *National Drug Threat Assessment for 2011*, specifically data on Transnational Criminal Organizations (TCOs) operating in more than 1000 of the nation's cities and communities. The 2010 edition of this report states that Mexican Drug Trafficking Organizations (DTOs) were the only DTOs operating in every region of the country. Mexican DTOs increased their cooperation with U.S.-based street and prison gangs to distribute drugs. In many areas, these gangs were using their alliances with Mexican DTOs to facilitate an expansion of their midlevel and retail drug distribution operations into more rural and suburban areas." In 2009, midlevel and retail drug distribution in the United States was dominated by more than 900,000 criminally active gang members representing approximately 20,000 street gangs in more than 2,500 cities.

The Department of Homeland Security boasts of "dramatic declines in illegal immigration" and "dramatic increases in seizures" over the past few years. Declines in illegal immigration in large part are attributable to problems in the U.S. economy. Immigration has declined because fewer jobs are available to migrant workers. Reductions in migrant labor are illustrated by a huge drop in remittances home to Mexico in the past two years.

DHS labels as a myth that the border is “out of control.” The Government Accounting Office concludes differently. They state in several reports that both south-to-north and north to south trafficking of drugs, humans and cash is virtually unimpeded in large stretches of the border. For example, the GAO reports that the Customs and Border Protection (CBP) agency over the last two years (Mar 2009- Feb 2011) has seized about \$65 million at land ports of entry along the southwest border and in illicit bulk cash smuggled out of the United States. This total is less than 1 percent of the estimated \$18-\$39 billion in drug-trafficking proceeds ferreted across the border.

Cartels and TCOs are increasingly financing more drug consumption and other criminal activities throughout the nation and amassing vast amounts of cash from criminal activities in the U.S. The Department of Justice and its Drug Enforcement Agency and the Department of Homeland Security and its CBP and Immigrations and Customs Enforcement (ICE) units know this well. Criminal drug trafficking across our border with Mexico has not diminished as evidenced by the routine seizure of multi-ton loads of illegal drugs in the U.S. and Mexico.

Our Report says little about the more than 10 million undocumented immigrants in the U.S. The Report does say, and documents, that the U.S. Federal government is doing a very poor job of stopping convicted foreign criminals from entering the country and removing foreign criminals who remain in the country after multiple convictions, imprisonments, and deportations.

DHS points to its year-end removal numbers as a success story. The flip side of this story is the failure to protect Americans and their communities from foreign criminals and their transnational criminal organizations inside the border counties of Texas and other states. In 2010, ICE removed over 195,000 convicted illegal criminal aliens. The majority of these alien criminals were arrested by state and local law enforcement agencies. Recently, ICE officials acknowledged, however, that despite these arrests, there were still an estimated 1 million convicted illegal criminal aliens in the United States. These criminal aliens at large probably have committed 3-4 million felony crimes including sexual exploitation of hundreds of thousands of children.

In Texas since 2008, over 86,000 criminal aliens were booked into Texas jails with criminal histories accounting for over 316,000 charges including:

- 319 murders
- 1,598 robberies
- 44,491 sexual assaults
- 23,310 indecency with a child
- 12,191 assault
- 18,823 burglaries
- 12,191 resisting arrest
- 11,137 stolen vehicles recovered from Mexico

In other words, hundreds of thousands of illegal alien criminals are pursuing lucrative crime careers in the U.S., and sending back tens of billions to Mexican crime lords to finance future crimes. In Texas and elsewhere tracking down these illegal criminal aliens and making arrests falls overwhelmingly to state and local law enforcement. State agencies resent the credit taken by DHS and ICE for their hard won achievements.

Our report concludes that a million or more criminal aliens responsible for committing millions of felony crimes continue to pass back and forth through Texas. These criminal fugitives collectively are a threat to national security as well as public safety. It is difficult to agree with Secretary Napolitano's statement last week that "we established, as top priority, the identification and removal of public safety and national security threats" when more than a million convicted criminal aliens are roaming the streets of America. Their presence justifies our conclusion that our borders are not in fact secure.

The federal government is also silent on the fact that the states have to pick up the tab for the hundreds of millions it costs to house, feed and provide medical care to illegal criminal aliens. These costs do not include the expense of investigating and prosecuting cartel and gang crimes. The federal government in fact reimburses the states only pennies on the dollar for incarceration expenses.

Cartels are driven not by religion or ideology but by the motivation of huge and growing profits from drug production and shipment, human smuggling, cash and weapons trafficking, and expanded criminal enterprises in Mexico, the U.S. and internationally. Mexico recently established the world's largest collection of industrial-size meth labs, that import vast amounts of precursor chemicals from Southeast Asia, and ship to the world's largest market for illegal drugs is just over the border as well as other international markets.

Some elected officials representing communities along the Texas-Mexico border assert that our report "makes outrageous claims" not supported by the facts. They even suggest that the authors are "manipulating crime statistics to mischaracterize the border as out-of-control".

These elected officials have gone so far as to accuse the report's authors of producing "propaganda," trying to "discredit the President," being politically motivated, promoting Governor Perry's political agenda, and trying to distract voters from the "real issues."

Our main purpose in writing the report was to broaden and deepen the altogether too narrow and shallow perspective on "border security" in the national policy debate. We state emphatically that most of the evidence presented in our report, and documented in an extensive bibliography, is derived from existing Congressional testimony and federal documents. Our role was to add military experience and perspectives to data that already exists. The findings and conclusions in our report are not secrets. Most of the data is all in public records, accessible by anyone with an Internet connection. Our report provides close to 200 Web links. The public can just click and read.

In our opinion the three “real issues” documented in the report have much to do with the consequences of an insecure border to the nation, not to the character of the authors:

1. The actual situation on the Southwestern border is well known but publicly denied by the Department of Justice, DHS and other national law enforcement agencies. In fact they have gathered and even published a vast amount of evidence that Mexican cartels and transnational criminal organizations (TCOs) are expanding a network of drug, human trafficking and other felony crimes throughout Texas and across more than a 1000 U.S. cities.
2. Much of this TCO crime is channeled through the porous Texas border with an impact on every state in the nation. These crimes are largely managed by hardened illegal criminal aliens who are alumni from the nation’s Federal and state prison systems with their schooling paid for by the taxpayer.
3. Hundreds of thousands of these Mexican criminal aliens are deported annually only to return as troops for TCOs better equipped to engage in profitable criminal enterprises and activities throughout the U.S.

Our report concludes that Washington is responsible for securing the border. Texas and the other border states are committed to support the federal effort. This collective mission cannot be accomplished if the federal government refuses to hold up its end of the deal by inadequate funding and a continued denial and abdication of their responsibilities.

Thank you for the opportunity to come before your committee to testify and submit this statement for the record.